


COUNTY OF YORK

MEMORANDUM

DATE: July 19, 2006 (BOS Mtg. 8/1/06)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Old Williamsburg-Yorktown Road (Route 1122)/Old York Road (Route 640) and Water Country Parkway (Route 640) - Proposed Abandonment of Roads

Issue

Premier Properties, the developer of the proposed “Marquis” retail center, has requested that the County initiate the process of abandoning the portions of Old Williamsburg-Yorktown Road (Route 1122) and Old York Road/Water Country Parkway (Route 640) that exist within the bounds of the project site. Except for the Water Country USA entrance drive, the road segments within the subject sections of right-of-way have not been maintained for years and are not used by the public (see attached map).

This action can be considered in accordance with the terms of Section 33.1-151 of the Code of Virginia. Section 33.1-151 provides that the Board of Supervisors may abandon a road, after public notice, when it determines that no public necessity exists. Notice of the intention to abandon the road must be authorized by a formal resolution of the Board and must be given by posting a notice either at the courthouse or along the route, and by publishing it in the newspaper (*note: the Board previously indicated, by consensus, that the notice of intent could be published; however, it was subsequently discovered that VDOT procedures require authorization to be by a formal resolution*). Notice of the intent to abandon must also be given to the Commonwealth Transportation Board. Owners of property abutting the section(s) of road to be abandoned (in this case, Busch Properties, Inc., Busch Entertainment Corporation, and Marquis at Williamsburg, LLC [Premier Properties]) or the Commonwealth Transportation Board may, within thirty (30) days of such notice, request the Board of Supervisors to conduct a public hearing on the proposal. The Board’s formal action to abandon the road must be taken within four (4) months of the expiration of the notice period or the public hearing, whichever is applicable.

Considerations

As the Board is aware, in conjunction with the proposed Marquis development, Water Country USA is planning to relocate its entrance further east along Route 199. The existing Water Country Parkway segment that serves as Water Country’s entrance would be incorporated into the access drive serving The Marquis retail center. Water Country would maintain an employee and emergency access connection to the Marquis entrance road with those rights to be guaranteed through recorded joint access easements. While initially envisioned as a publicly dedicated road, the Marquis entrance road is now proposed to be owned and maintained by the developer (Premier Properties), although still

designed and constructed to meet VDOT standards and specifications. Under the above-described development scenario there appears to be no public necessity to maintain these rights-of-way in public ownership.

Route 1122 (Old Williamsburg Road) is a prescriptive easement, which means that upon formal abandonment title to the right-of-way will revert to the underlying property owner.

The Route 640 (Water Country Parkway) right-of-way is owned by VDOT (Commonwealth of Virginia) and conveyance of title to that area will be subject to an appraisal and formal determination of value by VDOT. Premier Properties is aware of the fact that compensation to the Commonwealth will be required in order to secure title to the Route 640 right-of-way.

Recommendation

Development of the proposed Marquis retail center is dependent on eliminating these unused rights-of-way, and that was anticipated at the time of project approval. To initiate the process for formal consideration of this proposal, I recommend that the Board adopt the attached resolution to authorize the posting and publication of the required notices of intent to abandon the subject road segments. If a public hearing is requested, it will need to be advertised and conducted before the Board could consider an additional VDOT-required resolution to officially approve the abandonment. If no public hearing is requested, then the additional resolution could simply be placed on a future agenda for action.

Carter/3337

Attachment

- Vicinity Map
- Resolution No. R06-105